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Siemens Corporation
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Iselin, NJ 08830

EXAMINER

MCLEOD, MARSHALL M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,174	Applicant(s) FINKENZELLER ET AL.	
	Examiner MARSHALL MCLEOD	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 56-77 are pending in this application. Claims 1-55 have been cancelled.

Furthermore, the examiner withdraws the 35 U.S.C. 112, first paragraph rejection and the claim objection of claim 68.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 56 -71 and 73-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eneborg et al. (Patent. No 6,965,948 B1), hereinafter Eneborg, in view of Muller et al. (Patent No US 6356541 B1), hereinafter Muller.**

4. With respect to claims 56, 60, Eneborg discloses a method for selecting network access to at least one data network using a telecommunication terminal device (Column 1, lines 5-16) comprising: the telecommunication terminal device selecting access to a first network (Column 3, lines 25-34); the telecommunication terminal device connecting to the first network (Column 3, lines 25-34); the telecommunication terminal device recording and saving quality of service information for the first network (Column 5, lines 64-67; i.e. the cited prior art discloses ". . . stored in a local memory ... (QOS)..."); the telecommunication terminal device disconnecting from the first network (Column 1, lines 43-54); the telecommunication terminal device

Art Unit: 2457

determining that a plurality of networks are available, the available networks comprising the first network and at least one second network (Column 3, lines 15-20); the telecommunication terminal device analyzing the saved quality of service information for the first network to select access to one of the first network and a second network of the at least one second network (Column 6, lines 1-20); the telecommunication terminal device selecting access to one of the first network and the second network of the at least one second network (Column 7, lines 10-18); and the telecommunication terminal device connecting to the selected first network or the second network of the at least one second network (Column 7, lines 10-18).

Eneborg does not disclose the telecommunication terminal device determining a location of the telecommunication terminal device with the aid of the first network; the telecommunication terminal device saving location data comprised of information relating to the determined location; saved location data.

However, Muller discloses the telecommunication terminal device determining a location of the telecommunication terminal device with the aid of the first network (Column 8, lines 66-67 continued through to Column 9, line 5; i.e. Muller states “. . . include the corresponding code number or local area code so that the selection device 4 can use the Internet destination addresses or the corresponding destination call numbers which are stored in the memory 7 to determine the location of the corresponding central computer, which is to be accessed, of the respective Internet service provider. In order to determine, for the connection setup to the Internet destination addresses or destination telephone numbers stored in the memory 7, the most

Art Unit: 2457

economical registration of the registrations stored in the memory. . .”. The cited portion directly above when read in context with (Column 1, lines 66-67 continued through to Column 2, lines 1-7) which states “. . .the service providers frequently make available a number of telephone addresses at different local access points for the user so that the user can select the access point which is nearest to his location in order to minimize the telephone charges”. When read in context, the examiner interprets the cited portions of Muller to disclose that in order to offer a user the “the most economical registration of the registrations stored in the memory” which Muller describes as “local access points for the user so that the user can select the access point which is nearest to his location in order to minimize the telephone charges”. Therefore, it is **inherent** that a determination of the users location itself must be made in order to know which access point or central computer is closest to the user); the telecommunication terminal device saving location data comprised of information relating to the determined location (Column 8, lines 66-67 continued through to Column 9, lines 5-25); saved location data (Column 8, lines 66-67 continued through to Column 9, line 5).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network by identifying the device's location.

5. With respect to claim 57, Eneborg discloses wherein the communication terminal device is one of a mobile radio terminal, a computer, and a laptop (Column 4, lines 47-53) and the

Art Unit: 2457

analyzing of the saved quality of service information for the first network to select access to the first network or the second network of the at least one second network is based on an analysis method that depends upon at least one user defined parameter (Column 8, lines 23-40).

6. With respect to claim 58, the combined teachings of Eneborg and Muller disclose linking location information of the telecommunication terminal device to the recorded and saved quality of service information for the first network (Eneborg; Column 8, lines 23-40).

Eneborg does not disclose wherein the telecommunications terminal device determines the location while the telecommunication terminal device is connected to the first network.

However, Muller discloses wherein the telecommunications terminal device determines the location while the telecommunication terminal device is connected to the first network (Column 8, lines 66-67 continued through to Column 9, lines 5-25).

7. With respect to claim 59, it is rejected for the same reasons as claim 58 above. In addition, the combined teachings of Eneborg and Muller discloses wherein the analyzing of the saved quality of service information for the first network to select access to the first network or the second network of the at least one second network considers the location information linked to the recorded and saved quality of service information for the at least one first network (Eneborg; Column 6, lines 1-20).

Art Unit: 2457

8. With respect to claim 61, Eneborg discloses wherein the communication terminal device is one of a mobile radio terminal, a computer, and a laptop (Column 4, lines 47-53) and the at least one other telecommunication terminal device is within a predetermined distance of the telecommunication terminal device (Column 5, lines 1-19; i.e. the prior art discloses a LAN, Bluetooth, etc. all of which have a set (predetermined) distance).

9. With respect to claim 62, Eneborg discloses wherein the telecommunication terminal device is configured to communicate the saved quality of service information for the first network to other telecommunication terminal devices (Column 8, lines 23-40).

10. With respect to claim 63, Eneborg discloses wherein the analyzing of the saved quality of service information for the first network accounts for at least one interface of the telecommunication terminal device (Column 12, claim 11).

11. With respect to claim 64, the combined teachings of Eneborg and Muller discloses wherein the second network of the at least one second network is selected after the analyzing of the saved quality of service information (Eneborg; Column 6, lines 1-20).

Eneborg does not disclose saved location data.

However, Muller discloses saved location data (Column 8, lines 66-67 continued through to Column 9, lines 5).

12. With respect to claim 65, Eneborg discloses wherein the telecommunication terminal device is a mobile radio telecommunication terminal (Column 4, lines 47-67).

13. With respect to claim 66, Eneborg discloses the telecommunication terminal device analyzing costs or charges associated with access to each second network for use in determining which of the first network of the at least one second network to select (Column 3, lines 31-43).

14. With respect to claim 67, Eneborg discloses wherein the analyzing of the saved quality of service information for the first network to select access to the first network or the second network of the at least one second network is based on an analysis method that depends upon at least one network access quality parameter and at least one account parameter (Column 8, lines 23-40).

15. With respect to claim 68, Eneborg discloses wherein the at least one account parameter is comprised of at least one parameter dependent upon a selected video application (Column 8, lines 23-40).

16. With respect to claim 69, Eneborg discloses storing the quality of service information for the first network on a central computer (Column 6, lines 32-42).

Art Unit: 2457

17. With respect to claim 70, Eneborg discloses updating the stored quality of service information for the first network (Column 5, lines 64-67).

18. With respect to claim 71, Eneborg does not disclose wherein the selecting of access to the first network or the second network of the at least one second network is determined based upon telecommunication terminal device location requirements needed for access to the second network of the at least one second network.

However, Muller discloses wherein the selecting of access to the first network or the second network of the at least one second network is determined based upon telecommunication terminal device location requirements needed for access to the second network of the at least one second network (Column 11, lines 20-52).

19. With respect to claim 73, Eneborg discloses a telecommunication terminal device comprising: at least one interface for connecting to at least one network (Column 1, lines 5-10); a monitor module connected to the at least one interface, the monitor module configured to monitor a quality of a network connection between the telecommunication terminal device and a network (Column 5, lines 48-59; i.e. a module is simply software in the device); a reputation repository module connected to the monitor module, the reputation repository module configured to retain quality of network connection information monitored by the monitor module (Column 5, lines 60-67); a connection analysis module connected to the reputation repository module, the connection analysis module configured to analyze network connection information retained in

Art Unit: 2457

the reputation repository module (Column 6, lines 1-20); and a connection management module connected to the connection analysis module, the connection management module configured to use data analyzed in the connection analysis module to determine an accessible network to select for connection to a network (Column 8, lines 54-67 continued through to Column 9, lines 1-8); and saved quality of network connection information such that the connection analysis module can access (Column 5, lines 64-67).

Eneborg does not disclose the telecommunication terminal device configured to determine a location the telecommunication terminal device is in when connected to the network and link that location and evaluate the location information when analyzing network connection information.

However, Muller discloses the telecommunication terminal device configured to determine a location the telecommunication terminal device is in when connected to the network and link that location (Column 8, lines 66-67 continued through to Column 9, lines 5-25) and evaluate the location information when analyzing network connection information (Column 8, lines 66-67 continued through to Column 9, lines 5-25).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network by identifying the device's location.

Art Unit: 2457

20. With respect to claim 74, Eneborg discloses wherein the connection management module is configured to process all potential combinations of the interfaces and available network access providers to use to determine an optimum network access to select for connection to that network (Column 9, lines 9-29).

21. With respect to claim 75, Eneborg discloses a reputation information client module connected to the connection analysis module, the reputation information client module configured to direct communications with other telecommunication terminal devices to obtain network access information that the other telecommunication terminal devices have stored (Column 6, lines 1-20); and the connection analysis module configured to access the network access information that the other telecommunication terminal devices have stored obtained by the reputation information client module (Column 8, lines 54-67 continued through to Column 9, lines 1-8).

22. With respect to claim 76, Eneborg discloses wherein the reputation information client module is connected to the reputation repository module (Column 6, lines 1-20).

23. With respect to claim 77, Eneborg does not disclose a localizing module connected to the reputation repository module, the localizing module configured to determine the location of the telecommunication terminal device with the aid of the network, the data of the determined location also being stored in the repository module.

Art Unit: 2457

However, Muller discloses a localizing module connected to the reputation repository module, the localizing module configured to determine the location of the telecommunication terminal device with the aid of the network, the data of the determined location also being stored in the repository module (Column 8, lines 66-67 continued through to Column 9, lines 1-25).

24. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eneborg in view of Muller and further in view of Tayloe et al. (Patent No US 5,826,188 A), hereinafter Tayloe.

25. With respect to claim 72, neither Eneborg nor Muller discloses a navigation system of the telecommunication terminal device communicating directions on how to get to a location needed for access to the second network of the at least one second network.

However, Tayloe discloses a navigation system of the telecommunication terminal device communicating directions on how to get to a location needed for access to the second network of the at least one second network (Column 4, lines 1-12).

Response to Arguments

26. Applicant's arguments filed 08 February, 2010 have been fully considered but they are not persuasive.

Art Unit: 2457

27. With respect to applicants arguments on page 15 of 20 of the instant arguments.

Applicant's contend that "The Examiner states that "other factors" mentioned by Eneborg et al. include location of a terminal device. (Office Action, at 8). To the contrary, Eneborg et al. do not provide such a disclosure". The examiner respectfully states to applicants' that the examiner no longer relies on the previously cited art to teach/disclose applicants' limitation and refers applicants' to newly crafted rejection above.

28. With respect to applicant's arguments at the bottom of page 15 of 20 of the instant arguments. Applicant's contend that neither Eneborg, Tayloe, nor Muller, teach or suggest a telecommunication terminal device saving network quality of service information and location data for use in subsequent selections of networks to access. The examiner respectfully disagrees and refers applicants' to the newly issued rejection above. Furthermore, the examiner respectfully states to applicants that the rejection given above is a 35 U.S.C. 103(a) rejection and as such applicants' must consider the combined references as a whole and not in a piecemeal fashion. As one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

29. With respect to applicant's arguments at the top of page 16 of 20 of the instant arguments. Applicant's contend that "There is no teaching or suggestion of the terminal device determining its location or using its location for analyzing any network access options". The examiner respectfully disagrees and refers applicants' to the prior art Muller at Column 11, lines 20-52). Furthermore, the examiner respectfully states to applicants that the rejection given above is a 35 U.S.C. 103(a) rejection and as such applicants' must consider the combined references as

Art Unit: 2457

a whole and not in a piecemeal fashion. As one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-3808. The examiner can normally be reached on Monday - Thursday 6:30 a.m-4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner, Art Unit 2457

/Marshall McLeod/
Examiner, Art Unit 2457
4/10/2010